

## HOUSE BILL NO. 462

INTRODUCED BY J. WITT

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING A PETROLEUM STORAGE TANK OWNER OR OPERATOR WHO WOULD OTHERWISE LOSE ELIGIBILITY FOR REIMBURSEMENT FROM THE PETROLEUM TANK RELEASE CLEANUP FUND BY FAILING TO REMAIN IN COMPLIANCE WITH OPERATIONAL AND CLEANUP REQUIREMENTS TO POTENTIALLY RECEIVE SOME REIMBURSEMENT WHEN NONCOMPLIANCE ISSUES ARE CORRECTED; AMENDING SECTIONS 75-11-308 AND 75-11-318, MCA; AND PROVIDING EFFECTIVE DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 75-11-308, MCA, is amended to read:

**"75-11-308. Eligibility.** (1) An owner or operator is eligible for reimbursement for the applicable percentage as provided in 75-11-307(4)(a) and (4)(b) of eligible costs caused by a release from a petroleum storage tank only if:

(a) the release was discovered on or after April 13, 1989;

(b) the department is notified of the release in the manner and within the time provided by law or rule;

(c) the department has been notified of the existence of the tank in the manner required by department rule or has waived the requirement for notification;

(d) the release was an accidental release;

(e) with the exception of the release, the operation and management of the tank complied with applicable state and federal laws and rules that the board determines pertain to prevention and mitigation of petroleum releases when the release was discovered and remained in compliance following discovery of the release; and

(f) the owner or operator undertakes corrective action to respond to the release and the corrective action is undertaken, in accordance with a corrective action plan approved by the department, from the time of discovery until the release is resolved.

(2) An owner or operator is not eligible for reimbursement from the petroleum tank release cleanup

1 fund for expenses caused by releases from the following petroleum storage tanks:

2 (a) a tank located at a refinery or a terminal of a refiner;

3 (b) a tank located at an oil and gas production facility;

4 (c) a tank that is or was previously under the ownership or control of a railroad, except for a tank  
5 that was operated by a lessee of a railroad in the course of nonrailroad operations;

6 (d) a tank belonging to the federal government;

7 (e) a tank owned or operated by a person who has been convicted of a substantial violation of  
8 state or federal law or rule that relates to the installation, operation, or management of petroleum storage  
9 tanks; or

10 (f) a mobile storage tank used to transport petroleum or petroleum products from one location to  
11 another.

12 (3) When, subsequent to the discovery of a release, an owner or operator fails to remain in  
13 compliance as required by subsection (1)(e) or fails to conduct corrective action as required by subsection  
14 (1)(f) and is issued a violation letter by the department, all reimbursement of claims submitted after the  
15 date of the violation letter must be suspended. Upon a determination by the department that all violations  
16 identified in the violation letter have been corrected, all suspended and future claims may be reimbursed  
17 according to criteria established by the board. In determining the amount of reimbursement, if any, the  
18 board may consider the effect and duration of the noncompliance."

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20 **Section 2.** Section 75-11-318, MCA, is amended to read:

21 **"75-11-318. Powers and duties of board.** (1) The board shall administer the petroleum tank  
22 release cleanup fund in accordance with the provisions of this part, including the payment of  
23 reimbursement to owners and operators.

24 (2) The board shall determine whether to approve reimbursement of eligible costs under the  
25 provisions of 75-11-309(2), shall obligate money from the fund for approved costs, and shall act on  
26 requests for the guarantee of payments through the procedures and criteria provided in 75-11-309.

27 (3) The board may conduct meetings, hold hearings, undertake legal action, and conduct other  
28 business that may be necessary to administer its responsibilities under this part. The board shall meet at  
29 least quarterly for the purpose of reviewing and approving claims for reimbursement from the fund and  
30 conducting other business as necessary.

(4) The department shall provide staff support to the board as the department determines it is able. The board shall use the fund to pay:

(a) for department staff used:

(i) for the review or preparation of corrective action plans;

(ii) for the oversight of corrective action undertaken by owners and operators for the purposes of this part; and

(iii) for the review and processing of claims for reimbursement submitted by owners and operators under this part; and

(b) for department of transportation staff used for the collection of the petroleum storage tank cleanup fee.

(5) The board shall adopt rules to administer this part, including:

(a) rules governing submission of claims by owners or operators to the department and board;

(b) procedures for determining owners or operators who are eligible for reimbursement and determining the validity of claims;

(c) procedures for the review and approval of corrective action plans;

(d) procedures for conducting board meetings, hearings, and other business necessary for the implementation of this part; ~~and~~

(e) the criteria and reimbursement rates applicable to those owners and operators who comply with a violation letter issued by the department; and

~~(e)(f)~~ other rules necessary for the administration of this part.

(6) The board may apply for, accept, and repay loans from the board of investments pursuant to 17-6-225."

NEW SECTION. **Section 3. Saving clause.** [This act] does not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before [the effective date of this act].

NEW SECTION. **Section 4. Severability.** If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid

1 applications.

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3 NEW SECTION. **Section 5. Effective dates.** (1) Except as provided in subsection (2), [this act]

4 is effective October 1, 2001.

5 (2) [Section 2 and this section] are effective on passage and approval.

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